IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.8.2005

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.Nos.16804 of 2003 and 21187 of 2005

Albert Raj .. Petitioner in both W.P.s

Vs

1. The District Collector
   Kanyakumari District
   at Nagercoil.

2. The Superintendent of Police
   Kanyakumari District at Nagercoil.

3. The Reethapuram Town Panchayat
   rep. by its Executive Officer
   Reethapuram, Kanyakumari District. .. Respondents1 to 3 in WP:16804/2003

1. The State of Tamil Nadu
   rep. by its Secretary to Government
   Home Department
   St.George Fort, Chennai.

2. The Director General of Police
   Kamarajar Salai, Chennai.

3. The District Collector
   Kanyakumari District
   at Nagercoil.

4. The Superintendent of Police
   Kanyakumari District at Nagercoil.

5. The Station House Officer
   Colachel Police Station
   Kanyakumari District. .. Respondents1 to 5 in WP:21187/2005

PRAYER in W.P.No.16804 of 2003: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorarified Mandamus as

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stated therein.

PRAYER in W.P.No.21187 of 2005: Petition under Article 226 of the Constitution of India for issue of a writ of Mandamus as stated therein.

For Petitioner	:	Mr.K.Chandru Senior Counsel for M/s.C.Robert Bruce R.S.Jain-LE-Sadmar
For Respondents 1 to 2 in WP:16804 of 2003 and 1 to 5 in WP:21187 of 2005	:	Mr.E.Sampath Kumar Government Advocate
For 3rd Respondent in WP:16804/2003	:	Mr.V.Subbarayan

ORDER

Heard both sides.

2. By consent, the writ petitions are taken for hearing.

3.1. In W.P.No.16804 of 2003, the petitioner seeks a writ of Certiorarified Mandamus to call for the records of the first respondent dated 31.3.2002 in RC.No.66444/99 (C3) and quash the same as illegal and unlawful and direct the first respondent to accord permission to construct the Panavilai C.S.I.Church Building in R.S.No.183/3 of Colachel Village, Kanyakumari District.

3.2. In W.P.No.21187 of 2005, the petitioner seeks a writ of Mandamus to forbear respondents 1 to 5 or their subordinates or anybody claiming under them from disturbing or obstructing from conducting marriages in Panavilai C.S.I. Church in Kanyakumari District.

4. Concededly, planning permission for construction of the Panavilai C.S.I.Church Building in R.S.No.183/3 of Colachel Village, Kanyakumari District was already sanctioned by the third respondent in W.P.No.16804 of 2003 and the same is also supported by the report of the Revenue Divisional Officer dated 11.11.1999. However, by the impugned proceedings dated 31.3.2002, the District Collector, Kanyakumari District at Nagercoil, on unsustainable reason, namely there are only a few C.S.I. Christians in the hamlet of Panavilai, rejected the permission for construction of the Church Building. Even as per the impugned proceedings of the first respondent dated 31.3.2002, a Hindu Temple is located at the distance of 198 feet away

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from the proposed Church Building.

5. Article 25(1) of the Constitution of India states that subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

6. That apart, the Division Bench of this Court, by order dated 14.7.2005 made in W.P.No.5202 of 1998, held as follows:

> ".. 13. This is a free, democratic and secular country. In our country people of all religions, castes and communities are equal under the Constitution, vide Articles 14 to 18, and they have a right freely to practice their religion, vide Article 25. This country does not belong to Hindus alone. It belongs equally to Muslims, Christians, Buddhists, Jains, Parsis, Sikhs, Jews, etc., and all are equal under the law. Also, it is not that only Hindus can live in this country as first rate citizens while others can live only as second rate citizens. That is not so. In our country all citizens are, and are entitled to live, as first rate citizens. It is the greatness of our Founding Fathers who made the Constitution that at the time of Independence in 1 947 when the sub continent was engulfed in religious madness they insisted that our country shall not be declared as a Hindu State, but shall be a secular State. This was indeed a very difficult thing to do at that time, because when passions are inflamed it is difficult to keep a cool mind. There must have been tremendous pressure on our Founding Fathers to declare India a Hindu State, particularly since Pakistan had declared itself an Islamic State. It is the greatness of our Founding Fathers that they kept a cool mind and resisted these pressures, and provided for a Secular State in India under our Constitution.
>
> 14. A basic feature of India is that it is a country with tremendous diversity having so many religions (including their different sects), castes (including hundreds of sub-castes), communities, languages, ethnic groups,etc. Hence, the only policy that can work in this country, and keep it united and on the path of progress is the policy of secularism and giving equal respect to all religions, castes, ethnic groups, communities, languages, cultures, etc. Without such a policy our country cannot survive for long."

7. In view of the fundamental right guaranteed to the citizens under our Constitution, viz., freedom of conscience and the right freely to profess, practise and propagate religion, which right is not

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restricted or qualified with reference to the number of persons living in a particular locality and applying the decision of the Division Bench of this Court in the order dated 14.7.2005 made in W.P.No.5202 of 1998, I find that the impugned order dated 31.3.2002 passed by the first respondent is illegal, unconstitutional and is therefore liable to be quashed. Hence W.P.No.16804 of 2003 is allowed and the impugned order dated 31.3.2002 passed by the first respondent is quashed.

In view of the order passed in W.P.No.16804 of 2003, no further orders are required in W.P.No.21187 of 2005 and the same is dismissed. No costs. Consequently, W.P.M.P.Nos. 23092 and 25430 of 2005 are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To:

1. The District Collector
   Kanyakumari District
   at Nagercoil.

2. The Superintendent of Police
   Kanyakumari District at Nagercoil.

3. The Executive Officer
   The Reethapuram Town Panchayat
   Reethapuram, Kanyakumari District.

4.The Secretary to Government
The State of Tamil Nadu
   Home Department
   St.George Fort, Chennai.

5. The Director General of Police
   Kamarajar Salai, Chennai.

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6. The Station House Officer
   Colachel Police Station
   Kanyakumari District.

+1cc to Mr.C.Robert Bruce Advocate Sr 32607
+1cc to the Govt. Pleader Sr 33071

VC (CO)
km/10.8.

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